

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: William Underwood, Budget & Finance Director/797-1050
Donald DiPetrillo, Fire Chief/797-1213

SUBJECT: Ordinance

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA RELATING TO ORDINANCE NO. 96-33, THE FIRE RESCUE ASSESSMENT ORDINANCE; AMENDING 2.13, "INTERIM ASSESSMENTS;" AMENDING THE DEFINITIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF:

This Ordinance is necessary to proceed with the Fire Rescue Assessment for Fiscal Year 2003-04. The Ordinance as amended allows the Town to establish the estimated assessment rates for all affected properties, prepare the preliminary assessment roll, and collect interim assessments at building permit rather than Certificate of Occupancy on all new properties. A public hearing on the second reading of the Ordinance and the final rate resolution will be held on September 3, 2003.

PREVIOUS ACTIONS:

Ordinance #96-33 was enacted by Council to establish the Fire Rescue Assessment Program.

CONCURRENCES:

Not applicable.

FISCAL IMPACT:

Has request been budgeted? yes

If yes, expected cost: \$17,500 plus mailing of first class notices.

Account Name: Professional/Consulting Services

Additional Comments: All costs are paid from the assessment program.

RECOMMENDATION(S):

Motion to approve the Ordinance as amended.

Attachment(s):

Ordinance No. 2003- ____

ORDINANCE NO. 2003-__

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BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. DEFINITIONS. The capitalized terms used in this ordinance shall have the meanings provided in Ordinance 96-33 unless specifically indicated otherwise.

SECTION 2. FINDINGS. The Town Council hereby ascertains, determines and declares that:

(A) This ordinance is enacted pursuant to Article VIII, section 2, Florida Constitution; sections 166.021 and 166.041, Florida Statutes, Ordinance No. 96-33, and all other applicable provisions of law.

(B) On August 7, 1996, the Town Council duly enacted Ordinance 96-33, commonly referred to as the Fire Rescue Assessment Ordinance. Ordinance 96-33 authorized the Town Council to impose annual special assessments on specially benefited properties for fire rescue services within the Town.

(C) Ordinance 96-33, Section 2.13, further authorized the Town Council to impose interim Fire Rescue Assessments on all specially benefited property in the Town for which a Certificate of Occupancy was issued after the adoption of the Annual Rate Resolution. The Town Council declares that it is within the reasonable exercise of its discretion whether to collect such an interim assessment at the time a Certificate of Occupancy is issued or whether to collect the interim Fire Rescue Assessment at the time a Building Permit is issued. Accordingly, the Town Council wishes to clarify that, with proper notice, it has the authority to

collect the interim Fire Rescue Assessment at either of these times.

SECTION 3. AMENDMENT OF DEFINITIONS. The Town Council hereby amends Section 1.01 of Ordinance 96-33 by adding the following definition for "Building Permit":

"Building Permit" means an official document or certificate issued by the Town, under the authority of ordinance or law, authorizing the construction or siting of any Building within the County. The term "Building Permit" shall also include set up or tie down permits, or their functional equivalent, for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed.

~~Strikethroughs~~ indicate deletions; double underlines indicate additions.

SECTION 4. AMENDMENT OF SECTION 2.13. The Town Council hereby amends Section 2.13 of Ordinance 96-33 in the following manner:

SECTION 2.13. INTERIM ASSESSMENTS.

(A) An interim Fire Rescue Assessment shall be imposed against all property for which a Certificate of Occupancy (or Building Permit, as determined by the Town Council) is issued after the adoption of the Annual Rate Resolution. The amount of the interim Fire Rescue Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year ~~in which the Certificate of Occupancy is issued~~ for which the interim Fire Rescue Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Fire Rescue Assessment shall also include an estimate of the subsequent Fiscal Year's Fire Rescue Assessment. No Certificate of Occupancy (or Building Permit, as determined by the Town Council) shall be issued until full payment of the interim Fire Rescue Assessment is received by the Town. Issuance of the Certificate of Occupancy (or Building Permit, as determined by the Town Council) by mistake or inadvertence, and without the payment in full of the interim Fire Rescue Assessments shall not relieve the Owner of such property of the obligation of full payment. For the purpose of this provision, such interim Fire Rescue Assessment shall be deemed due and payable on the date the Certificate of Occupancy (or Building Permit, as determined by the Town Council) was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity

with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Certificate of Occupancy (or Building Permit, as determined by the Town Council). Any interim Fire Rescue Assessment not collected prior to the issuance of the Certificate of Occupancy (or Building Permit, as determined by the Town Council) may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 3.01 of this Ordinance, under the alternative collection method provided in Section 3.02 or by any other method authorized by law.

(B) In the event the Town Council chooses to collect the interim Fire Rescue Assessment at the time a Building Permit is issued, the following procedure shall apply:

(1) In the event a Building Permit expires prior to completion of the Building for which it was issued, and the applicant paid the interim Fire Rescue Assessment at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Fire Rescue Assessment. Failure to timely apply for a refund of the Fire Rescue Assessment shall waive any right to a refund.

(2) The application for refund shall be filed with the Town Manager and contain the following:

(a) The name and address of the applicant;

(b) The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit;

(c) The date the Fire Rescue Assessment was paid;

(d) A copy of the receipt of payment for the Fire Rescue Assessment; and

(e) The date the Building Permit was issued and the date of expiration.

(3) After verifying that the Building Permit has expired and that the Building has not been

completed, the Town Manager shall refund the interim Fire Rescue Assessment paid for such Building.

(4) A Building Permit which is subsequently issued for a Building on the same property which was the subject of a refund shall pay the interim Fire Rescue Assessment as required by this Section 2.13.

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SECTION 5. SEVERABILITY. The provisions of this ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this ordinance shall not be affected thereby.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and adoption on second reading.

PASSED FIRST READING this _____ day of August, 2003.

PASSED AND ADOPTED SECOND READING this _____ day of August, 2003.

(SEAL)

By: _____
Mayor/ Council Member

ATTEST:

Town Clerk